



**US Army Corps
of Engineers**

Transatlantic Programs Center

Performance & Payment Bonds Bank Letter Of Guaranty (BLG)

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➤ DEFINITION - A written instrument requested by the Government as part of the solicitation; executed by the Contractor and a Surety to assure fulfillment of the principal obligation to the Government identified in the bond.

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- Miller Act (40 U.S.C. 3131 *et seq*) – For each Government Construction contract exceeding \$100,000.00, Contractors are required to furnish Performance and Payments Bonds.
- Must be submitted to the Contracting Officer with 15 calendar days after award and approved by Legal Counsel prior to issuing a Notice to Proceed to the Contractor.

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➤ Waivers to the Miller Act:

- ❖ *Contracting Officer may waive bond requirements for the work being performed in a foreign country upon determining that it is impracticable for the contractor to furnish such bonds. (FAR 28.102-1(a)(1))*
- ❖ *Cost Reimbursement Contracts (DFARS 228.102) – Bonds are not required unless there are fixed price construction sub-contracts in excess of \$100,000, the payment bond must be sufficient to pay for labor and material cost, and performance bond in an equal amount if available at no additional cost.*

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➤ Alternative to Performance and Payment Bond –

For Construction contracts performed in a foreign country,
TAC utilizes BLGs –

- a. 10% of the Contract Amount represents deposit required of the Contractor
- b. Effective – Completion date plus one year, or until the work has been finally accepted by the Government.
Then 1 year in an amount equal to 5% of original price after which the guarantee becomes null and void.